

87-2121

No. A-808

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUN 27 1988
JOSEPH E. SPANIOLO, JR.
CLERK

October Term, 1987

RAYMOND DOBARD

Petitioner

v.

OSCAR DASTE & SONS, INC.

Appellee

APPENDIX.... Relative To Petition For a Writ
of Certiorari to the Supreme
Court of Louisiana and for
Summary Reversal

Raymond Dobard
Petitioner in pro se
1866 Alcatraz Avenue
Berkeley, CA 94703
415/ 658-5344

June 24, 1988



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EXHIBIT R-7

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 82-2723

DIVISION "D"

DOCKET 4

OSCAR DASTE & SONS, INC.

VS.

RAYMOND DOBARD

PRE-TRIAL ORDER

A pre-liminary conference was held in this matter on the 17th day of January, 1986.

This matter is set for trial on the 21st day of April, 1986 at 10:30 o'clock a.m. It will take one day to try.

All amendments to pleadings and the adding of parties shall be completed 30 days from the date of the preliminary conference. Any party adding a party shall provide counsel for said party or parties with a copy of this order.

All motions and exceptions shall be filed 45 days prior to trial.

Discovery shall be completed 30 days prior to trial. This includes exchange of

documents, exhibits and expert reports.

List of witnesses shall be filed 20 days prior to trial.

Counsel shall submit a pre-trial memo 10 days prior to trial which shall include a list of witnesses, documents and exhibits to be introduced and a memorandum of fact and law.

Continuances will be considered only if agreed to by all parties or after a contradictory hearing.

Additional orders:

/S/ Avis Marie Russell
Commissioner and Judge Ad Hoc

EXHIBIT R-9

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 82-2723

DIVISION "D"

DOCKET 4

OSCAR DASTE & SONS, INC.

VS.

RAYMOND DOBARD

JUDGEMENT

The Court considered on this 21 day of April, 1986, several preliminary matters in this proceeding, the matter having been set for trial on the merits before the Honorable Judge Avis Russell, Commissioner, and Judge AD HOC for the Civil District of the Parish of Orleans.

The following were present:

1. Marc H. Morial, Esq., representing Oscar Daste.
2. Oscar Daste, plaintiff and owner of Oscar Daste and Sons, Inc.
3. Phil Foto, Esq., representing Raymond Dobard, defendant, who was absent.

After hearing argument of both counsel,

and upon consideration of the motion to continue urged by defendant Raymond Dobard through his counsel Phil Foto, the court issued the following judgement:

It is Ordered, Adjudged and Decreed that

A) The trial of this matter is reset for May 13, 1986, at 10:30 a.m. before Commissioner Russell.

B) The court will grant no further continuances and no further discovery will be allowed by either party.

C) Both parties shall file with the court a list of all witnesses at least 20 days prior to trial and shall also file a pre-trial memorandum of law no later than 10 days prior to trial.

D) Phil Foto is recognized as counsel of record for Mr. Raymond Dobard, and will not be allowed to withdraw as counsel; Therefore Foto's motion to withdraw is hereby denied and he shall not be allowed to withdraw under any circumstances except upon presentation to the court of a motion and order together with a notarized affidavit of Mr. Dobard indicating

that Dobard no longer wishes Foto to represent him and indicating his new counsel or his desire to represent himself. Such affidavit must be submitted to the court no later than _____ days prior to trial, or no later than the 5th day of May, 1986.

E) Defendant Raymond Dobard is hereby assessed costs as follows: Fifty-three dollars and no/100 cents (\$53.00) for expenses incurred by Daste for subpeonas.

F) Defendant Dobard is also assessed sanctions in the amount of seven hundred and fifty dollars and no/100 cents (\$750.00) for causing undue delay in these proceedings.

Signed this 28th day of April, 1986 at New Orleans, Louisiana.

s/ Louis Di Rosa
Judge
(sgd.) Avis Marie Russell

CIVIL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA
OSCAR DASTE & SONS, INC. NO. 82-2723
VERSUS DIVISION "D"
RAYMOND DOBARD

Testimony and notes of evidence taken in
the above-entitled cause before the HONORABLE
COMMISSIONER AVIS MARIE RUSSELL, Judge Ad Hoc
presiding, on Tuesday, the 13th day of May,
1986.

APPEARANCES:

MARC MORIAL, ESQ.

Representing the Plaintiff

PHILIP FOTO, ESQ.

REPORTED BY:

NANCY BEATY TATARSKI

OFFICIAL COURT REPORTER

OSCAR DASTE

Direct examination by
Mr. Morial

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LLOYD GAVION

Direct examination by
Mr. Morial

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ELLIS NARCISSE

Direct examination by
Mr. Morial

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LEVELL GAMMAGE

Direct examination by
Mr. Morial

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KENNETH DASTE

Direct examination by
Mr. Morial

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JEFFREY NARCISSE

Direct examination by
Mr. Morial

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* * *

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PROCEEDINGS

THE COURT:

Counsels, would you make your appearances for the record, please?

MR. MORIAL:

Your Honor, for the record, Marc Morial for Oscar Daste and Sons, Inc. and Oscar Daste.

MR. FOTO:

May it please the Court, Philip Foto, allegedly for the defendant, Raymond Dobard. Again, Your Honor --

THE COURT:

Wait, wait. I just asked you -- all I asked you to do was identify --

MR. FOTO:

Am I the attorney or not?

THE COURT:

You are the attorney because you didn't file a motion to withdraw.

MR. FOTO:

I have the file, but you told me not to file it unless he filed an affidavit notarized that intended me to and he did

not do that.

THE COURT:

Okay. Mr. Dobard filed some other papers. Since we last got together -- I don't even remember what the date was.

MR. FOTO:

It was April 21 or something like that.

THE COURT:

April 21?

MR. FOTO:

I think it was something like that.

THE COUR]:

That's about right.

-- he sent another telegram and he sent these papers that were stamped 'May 9" and in them, it's clear to the Court that he was aware of the trial date. He also filed these motions -- I don't even know if counsel for plaintiff received copy of them, and signed them. In addition, he called me on yesterday. I -- when I spoke to him, I said to him that he should be on an airplane to New Orleans

because he had a trial date set today and he said he filed some papers and he wanted me to act on them. I said, "Well," I said, "are you represented by counsel?" He said, "Yes." I said, "Then why are you filing papers?" He said, "Because I want you to hear them." I told him that he could not have both ways. If he was his own attorney, then that was fine. I told him that I was aware of the fact that Mr. Foto wanted to withdraw from the case. So to make a long story short, I made it clear to him that I was not continuing the trial, that he should be present, that he should be present both as a defendant in this matter and since he was representing himself, as counsel for himself. It is 10:57; he's not here. I did not get the impression that he was going to be here. With regard to the motions he filed, I told him that I could not rule on any of them without a hearing. The motions were -- it says, "Ex parte motion, setting aside judgment,

suspension of prescription, trial continuance, nonsuit as alternative." I don't understand what all of those things mean, but he's filed these papers and I told him that if he wanted to argue any of them, that he should be here and he's not. So, therefore, I'm going to allow Mr. Foto to be dismissed as counsel for Mr. Dobard and I'm going to proceed with taking evidence in this matter.

MR. FOTO:

Thank you, Your Honor. In that connection, I submit herewith a motion to withdraw.

THE COURT:

Is that the same one or is that a new one?

MR. FOTO:

No, ma'am, this is as a result of some of the things that I understand have transpired, although I have not gotten all the documents that you have referred to, which does state, however, well, basically, it sets forth the facts that Your Honor

TRANSCRIPT

has just stated, that he has represented himself.

THE COURT:

Okay. I'll sign this. It has to be stamped with "Recommended" on it and then I'll send it to Judge DiRosa.

MR. FOTO:

Thank you.

THE COURT:

Okay.

(Whereupon Mr. Foto leaves the courtroom.)

THE COURT:

You ready to proceed, Mr. Morial?

MR. MORIAL:

Yes. Yes, Your Honor. We are prepared to proceed.

Your Honor, I'd like a brief opening statement.

Your Honor, our first witness is Oscar Daste.

(Whereupon all witnesses were sequestered throughout the trial.)

OSCAR G. DASTE, JR.,

2849 Allen, New Orleans, Louisiana; having
TRANSCRIPT

EXHIBIT BB-7(b)

Filed Sept 4, 1986
Civil District Court

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 82-2723

DIVISION "D"

DOCKET 4

OSCAR DASTE & SONS, INC.

VS.

RAYMOND DOBARD

COMMISSIONER'S WRITTEN REASONS

STATEMENT OF THE PLEADINGS

Plaintiff, Oscar Daste and Sons, Inc., instituted this action against defendant, Raymond Dobard to recover the balance due on an oral contract for repair and renovation of immovable property.

Defendant, Raymond Dobard, appearing in proper person, filed an answer and reconventional demand. Defendant denied the allegations of plaintiff's petition and averred that he paid plaintiff in full. Raymond Dobard, as plaintiff in reconvention, seeks amounts incurred to correct work performed by plaintiff and defendant in

reconvention.

It does not appear from the record in this proceeding that service of the reconventional demand was requested or made. There is no answer to the reconventional demand or request for a preliminary default. Therefore, only the main demand is before this court.

FINDINGS AND CONCLUSIONS

In late September or early October 1981, Lloyd E. Gavion, Sr. contacted plaintiff, Oscar Daste, on behalf of his first cousin Raymond Dobard who needed work done on a house located on Touro Street in New Orleans.

Mr. Daste, a licensed masonry contractor, entered into an oral agreement with Raymond Dobard to do work at 1427-29 Touro Street in New Orleans. Mr. Dobard was and is a resident of California and he and Mr. Daste communicated in writing and by telephone.

Originally, plaintiff was to brick the front of the house for materials and time. As the work was being performed, Mr. Daste

determined that it was necessary to shore up
the house.

By letter, dated October 28, 1981, Mr. Dobard forwarded a \$2,000.00 check for the work being performed by plaintiff. In that letter, Mr. Dobard, experienced himself in the carpentry business, gave instruction on other work to be performed by defendant.

Again by letter, dated November 10, 1981, Mr. Dobard forwarded a payment of \$1266.33 indicating that this was payment in full for the work done by defendant.

Mr. Daste testified that the work performed at 1427-29 Touro was done in 3 phases. Phase 1 consisted of bricking the front of the house at a cost of approximately \$1200.00; Phase 2 was the leveling of the house and the concrete piers at approximately \$2,000.00. Mr. Daste admits that Mr. Dobard paid for Phases 1 and 2 but has failed to pay for the third phase which consisted of adding concrete footing, laying concrete block piers, removing THE FLOORING in two bedrooms, two kitchens, two porches and two bathrooms in

addition to other repairs and renovation billed at \$3,240.00 for work done as of November 23, 1981. Mr. Daste testified that he and his men completed the work the end of November. The final bill sent on November 30, 1986 was in the amount of \$5,399.02 which included \$3,480.00 for labor, \$983.51 in taxes and insurance and \$935.51 for materials.

Several of the workers on this job corroborated Mr. Daste's testimony regarding the work done at 1427-29 Touro Street and the period of time worked.

Mr. Dobard had due notice of the trial date and in fact knew of the trial date. Yet, he failed to appear at the trial of this matter and no one appeared to testify on his behalf.

The evidence presented supports a judgment in favor of plaintiff.

RECOMMENDED JUDGMENT

It is recommended that judgment be rendered in favor of plaintiff, Oscar Daste & Sons, Inc., and against defendant Raymond Dobard, in the amount of \$5,399.02 with legal

interest thereon from date of judicial demand
until paid and for all costs of these
proceedings.

August 14, 1986

/S/ Avis Marie Russell
Commissioner and Judge Ad Hoc

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS
STATE OF LOUISIANA

NO. 82-2723

DIVISION "D"

DOCKET 4

OSCAR DASTE & SONS, INC.

VS.

RAYMOND DOBARD

JUDGMENT ON EXCEPTIONS TO COMMISSIONER'S REPORT

The exceptions to the report of the
commissioner came on this day for trial.

PRESENT: Marc Morial, Attorney for plain-
tiffs, Oscar Daste and Sons, Inc.

Raymond Dobard defendant appearing
in proper person

When after hearing the pleadings and
argument of all parties

IT IS ORDERED, ADJUDGED AND DECREED That
the exceptions to the report of the commis-
sioner, filed herein on behalf of defendant,
Raymond Dobard, be and the same is overruled.

JUDGMENT READ, RENDERED AND SIGNED IN OPEN
COURT THIS 12TH DAY OF DECEMBER, 198¹.

⁶

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/s/

Louis A. Di Rosa
JUDGE

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 82-2723

DIVISION "D"

DOCKET 4

OSCAR DASTE & SONS, INC.

VS.

RAYMOND DOBARD

JUDGMENT

Considering the recommendation of the
commissioner made part of the record herein.

The court is of the opinion that the law
and evidence is in favor of the plaintiff,
therefore:

IT IS ORDERED, ADJUDGED AND DECREED that
there be judgment herein in favor of
plaintiff, Oscar Daste and Sons, Inc. and
against defendant, Raymond Dobard, in the full
sum of \$5,399.02 together with legal interest
thereon from date of judicial demand until
paid, and for all costs of these proceedings.
JUDGMENT, READ, RENDERED AND SIGNED IN OPEN
COURT THIS 16TH DAY OF DECEMBER, 1986.

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/s/
Louis A. Di Rosa
JUDGE

OSCAR DASTE AND SONS, INC. NO. CA-7591

VERSUS COURT OF APPEAL
RAYMOND DOBARD FOURTH CIRCUIT
STATE OF LOUISIANA

* * *

ON APPEAL FROM CIVIL DISTRICT COURT
FOR THE PARISH OF ORLEANS
NO. 82-2723, DIVISION "D"
HONORABLE LOUIS A. DIROSA, JUDGE

* * *

ROBERT L. LOBRANO
JUDGE

(Court composed of Judges Denis A. Barry,
Robert L. Lobrano and Charles R. Ward)

DEC. 15 1987

MARC H. MORIAL

New Orleans, La. 70113

FOR PLAINTIFF-APPELLEE

RAYMOND DOBARD

Berkeley, California 94703

IN PROPER PERSON, DEFENDANT-APPELLANT

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AFFIRMED.

Raymond Dobard, defendant, appeals a judgment in favor of Oscar Daste and Sons, Inc. in the amount of \$5,399.02, plus interest and costs for non payment of a construction contract.

FACTS:

Mr. Dobard is the non-resident owner of immovable property located at 1427-1429 Touro Street in New Orleans. Daste is a masonry contractor working in New Orleans. Because of the property's deplorable condition, Dobard elected to repair the building and requested assistance in finding a contractor from his cousin, Lloyd Gavion. Mr. Gavion approached Daste and asked him to repair and remodel the premises. Daste contacted Dobard at his residence in Berkeley, California, and they entered into a series of verbal and written communications concerning the Touro Street property. The initial work required Daste to erect a brick veneer on the front of

the building. The estimate for this work was \$2,700.00.

Daste obtained the necessary permits from The City and began his work in October, 1981.

Daste remained in daily contact with Dobard through letters and various telephone calls. As various problems were encountered, Daste would check with Dobard and inform him of the situation and obtain his permission before proceeding with corrective work.

On October 28, 1981, Dobard sent a \$2,000.00 check to Daste as partial payment. However, to complete the requested work, it was necessary for Daste to do some foundation work, including leveling the house. On November 5, 1981, Daste sent a statement to Dobard showing a total of \$3,266.33 for the work done to date, and requested a check for the balance of \$1,266.33.

This check was sent on November 10, 1981. Dobard then traveled to New Orleans around November 16, 1981 and visited the property. According to the testimony of

Daste, Dobard requested additional work on the house. Daste started this additional work which consisted of putting flooring down in the kitchen, patching the floor, and putting in two bathrooms.

On December 1, 1981, Daste received a letter from Dobard requesting him to stop work on the house due to lack of financing, and to mail a statement for materials and labor. Daste stopped work, boarded up the house and sent Dobard a bill for \$5,399.02. Daste made several requests for the amount owed but was unsuccessful. On February 11, 1982, Daste filed this suit requesting payment.

PROCEEDINGS BELOW

When the suit was initially filed, a curator ad hoc was appointed to represent Dobard, and a writ of attachment was issued against the property. Subsequently, Dobard retained his own counsel. However, throughout the course of this litigation and, even though Dobard was represented by counsel,

Dobard has elected to represent himself.

Dobard's attempts to represent himself have created a confused record which we shall attempt to put in perspective.

Dobard files this appeal pro se and submits a lengthy and confused brief in support of his assertions. We group the issues as follows:

- 1) Appellant was denied due process because of improper and/or insufficient notice of trial, and negligence of counsel.
- 2) Appellant's reconventional demand as improperly dismissed.
- 3) The record is in error and appellant should be allowed his version of the operative facts.
- 4) The trial court erred in rendering judgment against appellant.

NOTICE OF TRIAL

A review of the record shows that although this matter was filed February 26, 1982, trial was not held until May 13, 1986. Judgment was rendered December 12, 1986.

Dobard complains he was not properly notified of the May 13th trial date. The

record shows this matter was set for trial numerous times and was continued on all but one occasion by Dobard. The record contains pleadings by "mailgram" from Dobard requesting continuances and other pre-trial discovery.

On the April 21, 1986 trial date, even though all parties were properly notified, Dobard by mailgram advised the court that he didn't learn of that date until April 17, 1986 and requested that it be continued. The Court reset the matter for May 13, 1986. Mr. Foto as counsel for Dobard was present and notified.

The record shows that Dobard was once again advised of this trial date by letter from Mr. Foto. This notice was received by him on April 29, 1986. Documents filed by Dobard on May 6th indicate he was aware of the May 13th date. Furthermore, Dobard contacted the commissioner hearing this matter the day before the trial, to discuss additional motions he had filed. She advised him

again of the trial set the next day and that he should be present.

Dobard argues that La. R.S. 13:1171(D) requires notice of trial to be served by the civil sheriff. That statute was amended in 1984 and eliminates the necessity of that type of notification. It therefore has no effect on the May 1986 trial.

The record shows that Dobard's counsel of record was properly notified of the trial, and thus Dobard was also properly notified. His attorney sent this notice to him by registered mail.

We find no due process violation given the facts and history of this case. After numerous continuances, it was well within the discretion of the trial court to proceed with the matter.

NEGLIGENCE OF COUNSEL

Dobard claims he was denied a fair trial because of lack of representation and/or ineffective counsel.

Throughout this litigation Dobard has

attempted to represent himself, and be represented by counsel. On April 21, 1986 Mr. Foto attempted to withdraw as Dobard's attorney. The Court refused unless Foto could produce Dobard's written permission to do so. At that time, the Court also set the May 13th trial date. As previously stated Dobard was advised of that trial date. On the morning of the trial, Foto was allowed to withdraw as counsel for Dobard. The commissioner stated that her telephone conversation with Dobard the previous day convinced her he no longer desired Foto's representation. The matter went to trial as scheduled, and Daste presented his evidence on the merits.

We find that there is no denial of a fair trial. Dobard was well aware of the trial date and the necessity for his presence. His insistence, over the recommendations of Mr. Foto and the commissioner, that he represent himself suggests dilatory tactics that cannot be used as a claim for due process violations.

RECONVENTIONAL DEMAND

Dobard filed a reconventional demand against Daste. That demand was never properly served on Daste. Article 1063 of the Code of Civil Procedure provides:

"The petition in reconviction, whether incorporated in the answer to the principal action or filed separately, shall be served on the plaintiff in the principal action in the manner prescribed by Article 1314."

Article 1314 provides:

"A pleading which is required to be served, but which may not be mailed or delivered under Article 1313, shall be served by the sheriff, either on the adverse party in any manner permitted under Articles 1231 through 1265, or personally on the counsel of record of the adverse party."

The record shows that the reconventional demand was never properly served on Daste. Dobard's reliance on Article 1313 is misplaced since that article is not applicable. Furthermore Dobard is mistaken in his belief that the reconventional demand was dismissed. It was not dismissed, the Court did not consider it because issue had not been joined.

NARRATIVE OF FACTS

Dobard attempts to supplement the record with a narrative of facts. This is improper.

A narrative of facts is used only when there is no testimony recorded in the trial court, and is prepared by the trial judge or agreed to by the parties. La. C.C.P. Articles 2131; 2132. The transcript of the proceedings held on April 21, 1986; May 13, 1986; and December 12, 1986 are in the record. We find no legal support to allow appellant's narrative of facts.

JUDGMENT OF THE TRIAL COURT

This matter was heard before a commissioner on May 13, 1986. The commissioner filed her report with the district court on August 11, 1986 and recommended judgment in Daste's favor in the amount of \$5,399.02, plus interest and costs. The trial court, over the exceptions filed by Dobard, accepted the commissioner's recommendation, and granted judgment accordingly.

The evidence supports the following

factual conclusions. Daste and Dobard contracted to renovate Dobard's property on Touro Street. The contract initially provided for the construction of a brick veneer on the front of the house. At various times, Dobard requested or approved additional work. The cost of the initial work was \$2,700.00, of which Dobard paid \$2,000.00. Additional work, as shown on Daste's November 5, 1981 statement, showed the total cost at \$3,266.33, leaving a balance of \$1,266.33. Dobard paid this amount on November 10, 1981.

Daste testified that additional work was requested by Dobard on his visit to New Orleans around November 16, 1981. Daste was notified to cease work on December 1, 1981. The testimony and evidence in the record substantiates the labor, materials, taxes and loss profit owed as a result of the additional work.

Civil Code Article 2765 forms the basis for a contractor's claim in quantum meruit.

That article provides:

"The proprietor has a right to cancel at pleasure the bargain he has made, even in case the work has already been commenced, by paying the undertaker for the expense and labor already incurred, and such damages as the nature of the case may require."

Once advised to stop work, Daste's claim for work already incurred arose. In an action for quantum meruit the contractor is entitled to recover as much as he reasonably deserves for his services, and the time and labor required. Southern Mosaic Tile, Inc. v. Alessi, 411 So.2d 601 (La. App. 1st Cir. 1982).

Dobard's argument that the contract is void because it was not recorded has no merit. Dobard argues the requirements of La. R.S. 9:2756 require recordation. That statute has no application to the issues before us. It pertains to the necessity of recordation in conjunction with the lien and privileges granted by the Private Works Statute. Lack of recordation has no effect on the validity of a contract as between parties to that

contract.

We find no error in the trial court's judgment.

AFFIRMED.

EXHIBIT AA (1)

Office of The Clerk
Court of Appeal, Fourth Circuit
State of Louisiana

January 15, 1988

Mr. Raymond Dobard
1866 Alcatraz Avenue
Berkeley, CA 94703

Re: No. CA-7591,
Oscar Daste and Sons, Inc. vs. Dobard.

Dear Mr. Dobard:

Yesterday I received the enclosed documents from you. The Rehearing in the above captioned matter was denied yesterday, hence, I am returning these documents to you.

Sincerely,

/s/
Danielle Schott
CLERK OF COURT

Clerk's Office, New Orleans, Jan. 14, 1988.

Rehearing was this day refused in the case entitled OSCAR DASTE AND SONS, INC. vs. RAYMOND DOBARD,
No. CA-7591.

Very truly yours,

-33- /s/
Danielle A. Schott
CLERK OF COURT

THE SUPREME COURT OF THE STATE OF LOUISIANA

OSCAR DASTE AND SONS, INC.

VS.

NO. 88-C - 0355

RAYMOND DOBARD

IN RE: Dobard, Raymond; Applying for Writ of Certiorari and/or Review; to the Court of Appeal, Fourth Circuit, Number CA-7591; Parish of Orleans Civil District Court Div. "D" Number 82-2723.

March 11, 1988

Motion and writ denied.

JLD

JAD

WFM

JCW

HTL

LFC

Supreme Court of Louisiana

March 11, 1988

/s/ FRANS J. LABRANCHE, JR.

Clerk of Court

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For the Court

THE SUPREME COURT OF THE STATE OF LOUISIANA

OSCAR DASTE AND SONS, INC.

VS

NO. 88-C-0355

RAYMOND DOBARD

- - -

In Re: Raymond Dobard, applying for Reconsideration of this Court's Order dated March 11, 1988; to the Court of Appeal, Fourth Circuit, No. CA-7591; Parish of Orleans Civil District Court, Div. "D", No. 82-2723.

- - -

April 4, 1988

Reconsideration denied.

Petition for writ of mandamus denied.

JCW

JAD

PFC

WFM

JLD

HTL

LFC

Supreme Court of Louisiana
April 4, 1988

/s/ FRANS J. LABRANCHE, JR.
Clerk of Court
For the Court

U.S.C. Title 28 Section 1257 (3);
State Courts; Appeal; Certiorari

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a state statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States. June 25, 1948, c. 646, 62 Stat. 929.

42 USC 1985 (2).

42 USC 1985, gives to every citizen involved in litigation the right to be free from a conspiracy for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any state or territory, with intent to deny any citizen the equal protection of the laws, or to injure him, or his property for lawfully enforcing or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws.